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OCT 13 2000

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Implementation of 911 Act)	WT Docket No. 00-110
)	
The Use of N11 Codes and Other)	CC Docket No. <u>92-105</u>
Abbreviated Dialing Arrangements)	
_____)	

**COMMENTS OF THE WIRELESS CONSUMERS ALLIANCE, INC.
AND PETITION FOR FURTHER RULEMAKING**

Wireless Consumers Alliance, Inc. ("WCA") submits these comments with respect to the Commission's *Notice of Proposed Rulemaking*¹ in the above caption matters and petitions the Commission to include one other core issue in its deliberations. These comments are directed toward the *NPRM* in Docket No. 92-105.²

¹ *In the Matter of Implementation of 911 Act (WT Docket No. 00-110) and The Use of N11 Codes and Other Abbreviated Dialing Arrangements (CC Docket No. 92-105)*, Fourth Report and Order and Third Notice of Proposed Rulemaking (CC Docket No. 92-105) ("*NPRM*") and Notice of Proposed Rulemaking (WT Docket No. 00-110).

² Parties were directed to "identify comments for each Docket Number." (§ V.E.). We support the Commission's recommendations in Docket No. 00-110 however, we think that the objective of creating a "seamless, ubiquitous, reliable wireless telecommunications networks" will not be accomplished with negotiations with private carriers who have no incentive to cooperate. There are several current examples of wireless carrier non-cooperation in Docket 94-102, e.g. the King County Letter and the Texas 911 Group. The reality is the nation's wireless network is neither seamless, ubiquitous or reliable and will not become so by continuing to depend on the voluntary actions of wireless carriers or market forces.

This rulemaking is for the purpose of implementing the Wireless Communications and Public Safety Act of 1999 ("911 Act").³ The Commission designated 911 as the universal emergency telephone number in the United States as of August 29, 2000 and wireless carriers⁴ are now required to make 911 available to their subscribers as the number to call in an emergency.⁵ The *NPRM* seeks comments concerning the steps necessary to implement this order and asks for suggestions concerning appropriate transition periods.

Summary

The 911 Act designates "9-1-1 as the universal emergency telephone number within the United States for reporting an emergency to appropriate authorities and requesting assistance."⁶ The clearly stated Congressional intent is to make "911 the universal number to call in an emergency *anytime anywhere* in the country" and be connected with a public safety agency or emergency service provider. This is a mandatory, not a permissive, requirement and we respectfully disagree with the tentative conclusion in the *NPRM* that the Commission can allow wireless carriers to simply let a call to 911 ring without an answer because the state has not designated a PSAP in the local calling area where the call was received.

The technical requirement to connect a 911 call to the appropriate authority is within the existing capacity of all wireless switches ("Mobile Switching Center" or "MSC"). When 9-1-1 is

³ Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, enacted Oct. 26, 1999, 113 Stat. 1286, amending the Communications Act of 1934, 47 U.S.C. §§ 222, 251.

⁴ Sometimes herein called "CMRS."

⁵ *NPRM*, §1. 2., p. 3, ¶ 11, p. 7.

⁶ 47 U.S.C. 251(e)(3).

dialed by a wireless telephone user, the MSC can either deliver the call to the Access Tandem for the E911 network or look up the regular wireline telephone number in its table of numbers for the appropriate public safety agency and connect the call. In some areas of the country, certain numbers have been designated as emergency numbers to call, e.g., #77, *55 and *47. These numbers are typically in use along the state highway systems and are usually connected by the MSC to the wireline telephone number for State highway patrol, the local sheriff or police department. Replacing these numbers with "911" is the prime objective of the 911 Act. It is a trivial matter to add 911 to the table of numbers at the MSCs and in almost all instances, should be accomplished within thirty days.

We read the transition period provision in the 911 Act as for the benefit of the public who has become accustomed to using an abbreviated number other than 911 for emergency calls, not as an excuse for wireless carriers to stall and delay the implementation of 911. That is, there should be a reasonable period of time when *both* 911 and the other abbreviated emergency dialing numbers in use will be connected by the wireless carriers to the appropriate authority. After that time has elapsed, and we recommend two years, we suggest that a call to the non-911 number should be intercepted for a year by a recording advising the caller to dial 9-1-1. We also suggest that the wireless carriers be required to advise their customers in areas where there is a change in emergency number to 911 in a prominent manner in their monthly bills during the transition period. Rather than a reporting requirement, we recommend that any carrier that has not implemented 911 throughout its service area be required to file a waiver request and make the attendant showing under the Commission's rules.

Finally, we respectfully suggest that there is another important step the Commission must take to implement the 911 Act. The designation of 911 as the universal emergency telephone number carries with it the implicit assumption that all of the wireless equipment used by consumers will be able to dial 9-1-1, which is not the case. We ask the Commission to require that all wireless consumer equipment using CMRS systems have the ability to directly dial 9-1-1.

Section I below briefly reviews the history and purpose of the 911 Act showing that Congress intended to require all carriers to connect all 911 calls to a public safety agency without regard to whether or not there is a PSAP in the local calling area. Section II discusses the technical requirements to perform this connection and contends that the transition period is intended to be for the benefit of consumers, not carriers. Section III covers our petition that the Commission adopt rule changes to require that all wireless consumers' equipment have the capability of directly dialing 9-1-1.

I. The 911 Act requires carriers to deliver all emergency 911 calls to the “appropriate authorities” which term is broader than a PSAP.

Congress found that the 911 Act would reduce emergency response times and said “emergency care systems, *particularly in rural areas of the Nation*, will improve with the enabling of prompt notification of emergency services.”⁷ Senator Burns and Congressman Tauzin explained the purpose of the 911 Act as follows:

“In many parts of our country, when the frantic parent or the suddenly disabled older person punches 911 on *the wireless phone*, *nothing happens*. In those locations, 911 is not the emergency number. The ambulance and the police won’t be coming. You may be facing a terrible emergency, but you’re on your own, because you don’t know the local number to call for emergencies.

⁷ Section 2(5) of the 911 Act. Emphasis added.

'The e-911 Act of 1999' *will help fix that problem* by making 911 the number to call in an emergency -- *anytime, everywhere*. The rule in America ought to be uniform and simple" – if you have an emergency, wherever you are, dial 911.⁸

Mr. Tauzin went on to say: "Passing the [911 Act] is a recognition as the telecommunications industry changes that laws must also change to govern their operations."⁹

Thus, the clear intent of Congress in adopting the 911 Act is to remedy the situation where 911 is called and "nothing happens." In order to achieve this objective, the 911 Act amended Section 251(e) of the Communications Act by adding a new paragraph (3). This paragraph says that the Commission "shall designate 9-1-1 as the universal emergency telephone number . . . for reporting an emergency to appropriate authorities. The designation shall apply to both wireline and wireless telephone service."¹⁰ The term "appropriate authorities" is delineated in Section 2(a)(6) of the 911 Act as:

"emergency medical service providers and emergency dispatch providers; public safety, fire service and law enforcement officials; transportation officials, and hospital emergency and trauma care facilities."

A PSAP is defined in Section 6(3) as "a facility that has been designated to receive 9-1-1 calls and route them to emergency service personnel," in other words a type of "emergency

⁸ Congressional Record, Senate - August 5, 1999, page S10533, House - October 12, 1999, page H9859. Emphasis added.

⁹ *Id.* Emphasis added.

¹⁰ Section 3(a) of the 911 Act amending 47 U.S.C. § 251(e) by the addition of a new paragraph (3). Emphasis added.

dispatch provider” which is just *one* of the “appropriate authorities” identified in Section 2(a)(6) above.¹¹

There is nothing in the 911 Act which limits the requirement that wireless carriers “shall” deliver 911 calls to *only those* areas where there is a local PSAP. To read this requirement into the 911 Act defeats the clearly stated Congressional intent of “making 911 the number to call in an emergency – anytime, everywhere” including rural areas, “bike path or a duck blind in Louisiana”¹² to be connected to the appropriate authority.

This intent is further found, in Section 5 of the 911 Act, which amends 47 U.S.C. 222 by adding the following:

- “(4) to provide call location information concerning the user of a commercial mobile service –
 - (A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user’s call for emergency services.”¹³

Again, this description of appropriate authorities is much broader than PSAPs. Indeed, Congress stopped short of requiring states to establish PSAPs. Congress could have, but did not, simply suspended the requirement for use of 911 as the universal emergency number in areas where states have not designated a local PSAP.

¹¹ The term PSAP does not even appear in the 911 Act until Section 4, which concerns limitation of liability. See also fn. 13 *infra*, showing that a PSAP is separately listed an “appropriate authority” for the *first* time in section 5 of the 911 Act which relates to the provision of caller location.

¹² Congressional Record, House - October 12, 1999, page H9859.

¹³ The Commission has deferred consideration of Section 222. *NPRM* ¶ 7. The reference is included here because for the first time “a public safety answering point,” or PSAP, is added to the list of “appropriate authorities” contained in section 2(a)(6) of the 911 Act.

Thus, we respectfully disagree with the Commission's tentative conclusion "that we should not impose any particular obligation on carriers to transmit 911 calls to a particular local agency or similar destination in areas where State or local authorities have not established a PSAP or other answering point to which such calls can be routed."¹⁴ Congress used the words "shall" and "appropriate authorities" in amending Section 251(e). Such words cannot be construed as giving the Commission discretion to excuse a wireless carrier from connecting a 911 call unless there is a nearby PSAP. Such tortured and tortuous transliteration would conflict with the Supreme Court's oft-stated "assumption that the ordinary meaning of th[e statutory] language accurately expresses the legislative purpose." Park 'N fly, Inc. v. Dollar Park & Fly, Inc., 469 U.S. 189, 194 (1985). Congress imposed the requirement on the carriers to deliver 911 calls to the appropriate authority and the only reasonable construction of this provision requires the carrier to deliver a 911 call to the nearest public safety agency -- which may or may not be a PSAP.

This requirement also makes sense from a rational, humanitarian and policy point of view. As Congressman Markey said in the floor discussion concerning the 911 Act "many wireless carriers actively promote their services to consumers as safety devices, and [the 911 Act] reemphasizes the need to make that promise a reality for wireless communications."¹⁵ Attached is a copy of an article about an airplane accident that occurred in the mountains of Oregon. The passengers, Mr. and Mrs. Kirkpatrick and their 2-year-old daughter, initially survived the crash. Mrs. Kirkpatrick dialed 9-1-1 on her cell phone for help. Since there was no PSAP within the

¹⁴ *NPRM*, ¶ 21.

¹⁵ Congressional Record, page H9859.

local calling area where the cell station receiving the call was located, the wireless carrier allowed the call to ring unanswered. Mrs. Kirkpatrick then placed a cell phone call to her brother-in-law in Portland, Oregon. This, being a revenue producing call, was promptly connected by the wireless carrier. Mrs. Kirkpatrick's brother-in-law called 9-1-1 on a wireline phone and reported the situation to the PSAP in Portland, which called Mrs. Kirkpatrick on her cell phone and set the wheels in motion for a rescue, unfortunately not in time to save Mr. Kirkpatrick who died en route to the hospital. Here is a situation where minutes lost may have made the difference between life and death -- minutes lost when the call to 911 was simply allowed to ring unanswered by an obdurate wireless carrier. Some people may have simply given up when their call to 911 went unanswered, fortunately Mrs. Kirkpatrick dialed a toll call which was, of course, promptly connected by the wireless carrier and at least she and her daughter survived. What possible justification can there be for a wireless carrier to simply let an emergency call ring unanswered? And yet that is apparently what the Commission proposes to approve in its tentative conclusion in paragraph 21 of the *NPRM*.

This is not to say that carriers should be free to choose and select which public safety agency receives a 911 call. The use of the term "appropriate" requires selection of the agency which is "right for the purpose." In most instances this will be a PSAP, where none is available then it will be some other suitable public agency. This is simply a common sense requirement which should not be hard for carriers to implement.

II. The technical requirements for carriers to connect 911 calls are trivial. The “transition period” is for the benefit of consumers who are accustomed to calling an emergency number other than 911. CMRS carriers should be ordered to maintain both 911 and existing abbreviated emergency dialing numbers during the transition period.

The use of abbreviated, e.g., three digit, * and #, numbers are common throughout the wireless industry. These numbers are translated in tables within the MSC into regular wireline telephone numbers. For example, a call to 611 is converted at the MSC to the wireline telephone number for the carrier’s customer service center and connected to the wireline network. If that wireline number is changed to a new number, the MSC would simply and easily be updated.

There are two types of situations where a caller “punches 911 on *the wireless phone* [and] *nothing happens*.”¹⁶ The first situation is where an abbreviated dialing number has been designated by the state or local authority for emergencies and the wireless carrier has elected to simply let emergency calls to 911 ring unanswered. The second situation is where there is no PSAP in the local calling area and the wireless carrier has again decided to just let emergency calls ring --- ring --- ring --- ring ---.

MSCs can be quickly and easily programmed to add 911 to its tables to connect emergency calls to the appropriate authorities. This can be done without disrupting the connection of emergency calls using other abbreviated numbers. For example, both *55 and 911 calls to a Missouri highway cell site can be routed to the same emergency wireline number for the Missouri highway patrol. MSCs located in rural areas where the carrier has elected to let the 911 call ring can be easily programmed to connect the emergency call to the appropriate public safety agency.

¹⁶ See fn. 7 *supra*.

We contend that all MSCs are presently required to connect calls to 911 to the appropriate authority by the 911 Act. Section 251 of the Communications act says this requirement is a “duty” which applied to “wireless telephone service” upon the date the Commission designated 9-1-1 as the universal emergency telephone number in the United States, i.e., August 29, 2000.¹⁷ Generally speaking, CMRS providers should be able to reprogram all of their MSC’s, which do not now handle 911 calls, within much less than 30 days.

Section 3(a)(3) provides in applicable part that “the Commission . . . shall provide appropriate transition periods for areas in which 9-1-1 is not in use as an emergency telephone number.” Congress found that there are 20 such numbers in use throughout the country. We respectfully submit that this transition provision is plainly intended for the benefit of consumers who have become accustomed to using abbreviated numbers other than 911 to report an emergency -- and is not intended for carriers. A reasonable “transition period” is that period of time when both 911 and other abbreviated emergency numbers currently in use will be available to the public to minimize and prevent confusion. Such transition period should be used to educate and inform consumers that 911 is the number to be dialed for emergencies. This can be accomplished in a number of ways, including bill inserts. After a period of two years it would be appropriate to intercept calls to these abbreviated non-911 numbers for a year with an announcement instructing the caller to dial 911 if the call is an emergency. Rather than “transition reports,”¹⁸ we suggest that carriers who are not now providing 911 service everywhere in their

¹⁷ 47 U.S.C. 251.

¹⁸ *NPRM* ¶ 22.

service areas should be compelled to file waiver requests and make the usual showing why they have been unable to initiate such service.

The *NPRM* implies, but does not state, that the Commission will order carriers not to supply new emergency abbreviated dialing numbers other than 911 and will require the discontinuance of existing emergency abbreviated dialing numbers after the transition period.¹⁹ Since abbreviated dialing numbers are purchased from the CMRS providers for a fee, we suggest that the Commission require the carriers to forthwith notify the agency which is purchasing such numbers that they will not be available after the transition period.²⁰ This will enable these agencies to change road signs and take other measures to notify people in the area of the emergency number change.

In sum, we disagree with the conclusion in the *NPRM* that the 911 Act allows a transition period to “provide wireline and wireless carriers the necessary time to implement the technical modifications to their networks.”²¹ We submit that the mandate of the 911 Act is to give wireless consumers a single number, 911, to call in an emergency. This objective can be easily accomplished within a matter of weeks in the absence of unusual, extenuating circumstances. To say that the transition period is for carriers to undertake extensive hardware and software changes indicates some confusion between the “mandated” and the “encourage and support” provisions of

¹⁹ “[W]e encourage . . . innovative and effective use of alternate abbreviated dialing arrangements for non-emergency uses”. ¶ 13.

²⁰ It may be that the agency will elect to discontinue paying for the non-911 number before the end of the transition period. We suggest that in such instance the wireless carrier should be required to obtain a waiver from the Commission before discontinuing emergency service to the public on such number.

²¹ *NPRM* ¶ 18.

the 911 Act.²² What is “mandated” is basic 911 service which is well within the current capacity of the wireless carriers. “Encouraged and supported” by the 911 Act is the coordinated effort by all of the stakeholders in public safety to extend and improve the emergency communications system. It is that system which involves technical upgrades, and extensive hardware and software changes to reach the objective of better response time in an emergency.

We ask that consumers be given a transition period of two years, during which time CMRS providers will be required to maintain both existing abbreviated emergency dialing numbers and 911. We request that the Commission require CMRS providers to prominently provide monthly notification of the emergency number change to 911 in their billings to their subscribers who are located within the areas presently served by abbreviated emergency numbers other than 911.

III. Petition that the Commission order that all wireless customer equipment, which is connected to the CMRS system, have the capacity to directly dial 9-1-1

A necessary component of the CMRS wireless infrastructure is the equipment that is used

²² The notion that carriers may have to develop and operate a database system, certain network modifications and purchase hardware or software confuses the Commission’s Phase I and Phase II requirements in Docket 94-102 with the provisions of the 911 Act. (*NPRM* ¶ 19). Such upgrades may be necessary to satisfy the “new . . . mandate on . . . wireless carriers . . . to provide subscriber identification information . . . to providers of 911 emergency service and to providers of certain emergency support services used to assist or deliver emergency services.” This information is defined as “the listed names of subscribers . . . and such subscribers’ telephone numbers, addresses, or primary advertising classifications . . . or any combination” thereof. Such information is to be delivered “on a timely and unbundled basis”. However, this requirement is contained in Section 222 which the *Commission has deferred to a “CPNI” proceeding*. The 911 Act *permits but does not require* carriers to provide “call location information” “(A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility.” This merely clears the way for implementation of Phase II and is not a subject in this proceeding. Thus, the question in this proceeding is simply “what does it take to connect a regular wireless 911 call (not an E911 call) to the wireline network and the answer is very little.

by the consumer to place and receive calls. The Congressional mandate that 911 shall be the number used to “connect” members of the public to public safety agencies necessarily implies that the user will be able to, in fact, dial 9-1-1. This may not always be the case. For example, some telematics units are equipped with a handset which enables the caller to be directly connected to the 911 operators – others are not!

There is a steep growth in vehicle telematics, especially those services designed to provide emergency notification, which use CMRS systems to deliver emergency calls.²³ When an emergency occurs, the telematics caller is connected to a call center, typically staffed by employees of an automobile manufacturer or an answering service. The call center may then call a PSAP to request help. That call is not recognized as a regular 911 call by the PSAP, is afforded less priority than 911 calls and may never be connected. The Commission has found that any delay in handling emergency calls is against the public interest and adopted a 17-second rule with respect to the A/B-IR emergency call process.²⁴ Clearly telematics systems which do not allow the user to directly dial 9-1-1 will not meet this standard.

These telematics systems are a rapidly growing part of the communications infrastructure for the handling of emergencies, and as such, are within the compass of concern expressed by Congress in the 911 Act. The mandate that the Commission “designate 9-1-1 as the universal emergency telephone number within the United States” includes, as the Commission has recognized, the need to adopt rules to carry out that purpose. The Commission has proposed

²³ See: *RCR*, September 18, 2000. *Telematics big business*, p. 3.

²⁴ *Revision of the Commission's Rules to Ensure Compatibility with Enhanced E-911 Emergency Calling Systems*, Second Report and Order, 14 FCC Rcd 10954 at paragraph 41.

rules in the *NPRM* for the switching side of the process but not the for the wireless telephone equipment used by consumers, for which it also sets standards. We are not opposed to telematics or giving consumers the choice of using this service. However, we are opposed to CMRS equipment being provided to the public to enhance their safety and security which cannot be used to *directly* dial a public safety agency in an emergency. We respectfully petition the Commission, as part of this proceeding, to require that all CMRS equipment sold and provided to consumers have the capability of permitting the user to directly dial 9-1-1.

Conclusion

In sum, the Commission does not have the authority to excuse wireless carriers from delivering a 911 call. The mistaken notion that there must be a PSAP present for a wireless carrier to deliver such a call appears to be rooted in the Phase I and Phase II proceedings in Docket 94-102 where the Commission held that wireless carriers were not required to deliver identification and/or location information to PSAPs who do not have the capacity to use such information. The only technical instrument that a public safety authority has to have to answer a basic 911 call is a phone.

The transition period is intended for consumers to adjust to the change to 911 in areas where some number other than 9-1-1 has been used for emergency calls. To allow the carriers a “transition period” will be to open the door to abusive delay which has become the hallmark of the wireless industry. The appropriate method to handle those very few situations where the MSC cannot be promptly programmed to connect 911 calls to the appropriate authority is a request for waiver under the Commission’s rules.

Finally, the Commission should require that all customer equipment which uses the CMRS systems have the capacity to enable the user to directly dial 9-1-1.

October 11, 2000

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl Hilliard", written over a horizontal line.

Carl Hilliard

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Elsewhere in Oregon

Cellular phone used to locate plane wreckage

HAINES (AP) — Strung upside down in the airplane wreckage, her husband dying beside her, Okhui Kirkpatrick placed a frantic 911 call from the cellular phone she retrieved from inside the plane.

"He's bleeding to death. What am I supposed to do?" the 42-year-old Eagle Creek woman asked Portland dispatcher Curtis Erickson.

"Don't cry honey, mommy here for you," she told her 2-year-old daughter Kayla, who could be heard crying in the background.

The tapes, obtained by KOIN-TV Tuesday, give a chilling recounting of the woman's ordeal minutes after her husband's single engine crashed Friday in the Elkhorn Mountains during a violent storm.

Four hours later, the mother and daughter were whisked from the wreckage in a dramatic rescue. Her husband, pilot Brad Kirkpatrick, 45, died of injuries.

Authorities say the plane went down about 1 p.m. between Baker City and La Grande.

Unable to reach 911, Okhui Kirkpatrick contacted her brother-in-law in Portland, who got dispatchers to call her back on her cell phone.

"We're cold, very cold," the distraught woman told the dispatcher.

"We're trying to find you," Erickson told her. "There are people in helicopters and airplanes looking for you too, ok."

As Erickson tried to calm her, dispatchers got AT&T cellular to help track the call.

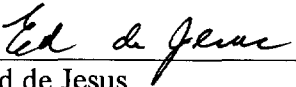
Once the wreckage was located, four Air National Guard rescuers rappelled about 100 feet out of the helicopters to reach the remains of the plane, found on the steep flanks of the 8,400 foot mountain.

Brad Kirkpatrick, a mechanic for Horizon Air and a retired crew chief with the U.S. Air Force, died en route to a hospital.

Okhui Kirkpatrick and Kayla were treated at St. Alphonsus Regional Medical Center in Boise, Idaho, for minor injuries and released.

PROOF OF SERVICE

I, Ed de Jesus, declare: I am employed in the City of Del Mar and County of San Diego, California. I am over the age of 18 years and am not a party to this action. On October 11, 2000, I served the COMMENTS OF THE WIRELESS CONSUMERS ALLIANCE, INC. AND PETITION FOR FURTHER RULEMAKING on the parties listed on the attached service list by placing a true and correct copy thereof, addressed as shown on the attached service list via first class mail.


Ed de Jesus

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